IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14928 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DHARMAKRUPA KELAVANI MANDAL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 14928 of 2003

MR MB GANDHI for Petitioner No. 1

MS RUMI M GANDHI for Petitioner No. 1

MR DIPEN DESAI, AGP for Respondent No. 1

MR DIPAK DAVE for MR AD OZA for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 22/09/2004

ORAL JUDGEMENT

#. Rule. Mr.Dipen Desai, learned AGP waives service of rule for respondent No.1 and Mr.Dipak Dave, learned advocate waives service of rule for respondent No.2 Board. With the consent of the learned advocates for the parties, this petition is taken up for final hearing today.

#. In this petition filed under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by respondent No.2 in cancelling the recognition granted by respondent No.2 Board on the ground that the petitioner has not complied with the conditions imposed by respondent No.2 board while granting the recognition, i.e. Deed of Declaration is not furnished as well as the amount of Rs.2 lakhs is not deposited in the joint account and that there are other conditions which are required to be complied with by the petitioners. The said order came to be carried in appeal before the State Government and the State Government also rejected the appeal confirming the order passed by respondent No.2 board and hence the present special civil application.

#. This Court (Coram: Jayant Patel,J) has passed the following order on 15.10.2003 in the present special civil application.

"Mr.Gandhi for the petitioner states that because of internal dispute among the trustees, the amount of Rs.2 lacs could not be deposited and he further states that now the petitioner is in a position to deposit the amount and is also ready to deposit interest at the rate of 12% p.a. on the amount of Rs.2 lacs. Mr.Gandhi further states that the petitioner is also ready to execute necessary bond for such purpose.

In view of the above, notice returnable on 7.11.2003. By way of ad interim order the status quo qua the position of the school shall be maintained on condition that the petitioner deposits amount of Rs.2 lacs + interest at the rate of 12% p.a. from 26.4.2001 till the date of deposit and such amount shall be deposited on or before 22.10.03. However, such deposit shall be subject to further orders which may be passed by this Court."

#. Today, when the matter is called out, Shri Gandhi, learned advocate appearing on behalf of the petitioner, submitted that the petitioner Trust has already deposited

Rs.2 lakhs with 12 % interest from 26.4.2001 till the date of deposit in the Joint Account and necessary Deed of Declaration is also furnished with respondent No.2 board. At this stage, Shri Dipak Dave, learned advocate appearing on behalf of respondent No.2 board as well as Shri Dipen Desai, learned AGP have submitted that there are other conditions also which are required to be complied with by the petitioner before any final recognition / registration is granted by the respondent Board.

#. Considering the aforesaid facts and circumstances and considering the fact that the petitioner trust has already deposited the amount of Rs.2 lakhs with 12% interest as directed by this Court vide order dated 15.10.2003 and also in view of the fact that the petitioner trust has already submitted the Deed of Declaration with the respondent No.2 Board and the main reason given by respondent No.2 Board cancelling the recognition was that the petitioner trust has not deposited the amount of Rs.2 lakhs in the Joint Account and Deed of Declaration is not supplied though repeatedly requested and now the same are complied with, in the peculiar facts and circumstances and considering the reasons stated in the petition, respondent No.2 is directed to consider the case of the petitioner for granting registration / recognition on having been satisfied that the petitioner trust has already complied with other conditions which are imposed by respondent No.2 board while granting recognition / registration. It will be open for the petitioner to submit necessary particulars with respondent No.2 Board to satisfy respondent No.2 Board that all conditions which are imposed by respondent No.2 Board while granting recognition are complied with. The respondent No.2 Board is directed to take appropriate decision with regard to grant of recognition / registration within a period of two months from the date of receipt of the writ of this order if the Board is satisfied that the petitioner has complied with all conditions, more particularly, conditions imposed vide communication dated 30.7.2001.

#. In the result, this petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.R.Shah,J)

(pathan)